

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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EMBLEMHEALTH, INC.)	
HEALTH INSURANCE PLAN OF)	
GREATER NEW YORK, INC. ET AL,)	
)	Case No. 19-1164
Plaintiff,)	
)	Judge Campbell-Smith
v.)	
)	
THE UNITED STATES,)	
)	
Defendant.)	
_____)	

JOINT STATUS REPORT

Pursuant to the Court’s July 5, 2023 order (ECF No. 28), the parties respectfully submit this Joint Status Report.

As the parties reported to the Court in their September 29, 2023 Joint Status Report, this case is currently stayed because the Government is working with a number of CSR Plaintiffs to determine whether they, and potentially, plaintiffs here, may efficiently resolve this and other pending CSR matters without further litigation or at least streamline these cases. In its July 5, 2023 order, the Court directed the parties to file a joint status report on August 1, 2023, and every 60 days thereafter until the stay is lifted or otherwise ordered by the Court.

Pursuant to the Court’s July 5, 2023 order, the parties respectfully submit this Joint Status Report. As stated our previous Joint Status Report, counsel for the Government and the other CSR Plaintiffs have reached a tentative agreement in principle on a methodology by which the Government and the other CSR Plaintiffs believe some of these CSR cases can be settled, potentially including this case. This settlement methodology has been reviewed by officials at both the Department of Health and Human Services and the Department of Justice, but the actual settlement of each CSR case applying that methodology must be approved and accepted by

Defendant and each participating plaintiff-issuer (including, potentially, the issuers in this case) before it can be finally authorized. The Government is proposing for the other CSR Plaintiffs' consideration a process to gather and verify certain relevant data to determine and calculate the damages that may be owed to a given plaintiff insurer for a given year pursuant to the agreed-upon methodology. Once the agreed-upon relevant data is gathered and verified, each issuer, including, potentially, the plaintiffs in this case, will have the option of participating in the proposed settlement process or continuing instead with litigation, subject to the approval process described above. The Government is also working to complete a draft form settlement agreement and release to be used by the Government and plaintiff-issuers as a template for each case in which the Government and respective issuers have agreed to settle.

Defendant expects to share a draft settlement agreement template with the other CSR Plaintiffs by December 1, 2023, and a timeline for its proposed data gathering and verification process with those plaintiffs by December 15, 2023. Therefore, the settlement agreement and approval process for these CSR cases will take additional time to complete. We thus respectfully request that the Court continue the stay in this case, with the parties to file another joint status report pursuant to the Court's July 5, 2023 order by Friday, January 26, 2024 to update the Court regarding the current status of the settlement process in this CSR case and others.

Respectfully submitted,

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